Dear F-1 International Students,

On April 8, 2008 the U.S. Department of Homeland Security (DHS) released an interim final rule, effective immediately, which changes a number of rules related to F-1 Optional Practical Training (OPT) work permission. It is still not entirely clear how these rules will be implemented going forward, but the information below is the best information we can provide you at this time. If you are currently on OPT, it is important that you read this information carefully so that you can maintain your legal status in the US and so that you can take advantage of any potential benefits of this new rule.

I. HIGHLIGHTS OF THE NEW RULE:

1. **17-month extension of OPT for STEM students:** The current 12-month limit on OPT is extended by 17 months, for a total of 29 months for certain STEM (Science, Technology, Engineering and Mathematics) degree holders ONLY. The OPT employer must participate in the E-Verify system for the student to apply. Additional reporting rules apply to students who are granted the 17-month extension.

2. **Extension of OPT work permission while an H-1B is being processed (“Cap-Gap Provision”):** The H-1B “Cap Gap” is being eliminated by extending OPT employment and status for ALL authorized OPT participants whose employers have properly filed an H-1B petition on their behalf; note that OPT is extended ONLY for the period of time that the H-1B petition is being processed or, if approved, until the H-1B starts on October 1.

3. **Extension of date to file for initial OPT:** The filing deadline for initial OPT applications is changed to allow students to apply in the 60-day grace period following completion of studies (applies to all OPT participants.)

4. **Requirement to report employer information:** Students are now required to report employer name and address and any change in employment to the school immediately (OIPS at UNM) and OIPS is required to report that information in the SEVIS government tracking system (applies to all OPT participants); note that students are also STILL required to report changes of name and current residential and mailing address information to OIPS as soon as any change is made.
5. **Limit on periods of unemployment during OPT:** Post-Completion OPT will now be dependent on employment. OPT students who accrue an aggregate of more than 90 days of unemployment will now have their SEVIS records terminated and be required to leave the US if they have not been admitted to a new F-1 program that begins within 5 months (applies to all OPT participants.)

**II. DETAILED INFORMATION ABOUT THE NEW RULE:**
More detailed information is available at:
http://www.ice.gov/sevis/

1. **17-month Extension of OPT for STEM Students**

A. **Eligibility:** F-1 students in STEM (Science, Technology, Engineering, Mathematics) fields who are granted initial post-completion OPT based on completion of a STEM degree are now eligible to apply for a one-time extension for 17 additional months, for a maximum of 29 months as long as they are employed by an employer who participates in the E-verify program operated by USCIS and the Social Security Administration (for more information on E-Verify visit: http://www.dhs.gov/ximgtn/programs/gc_1185221678150.shtm).

What qualifies as a STEM discipline?:
To be eligible for the 17-month OPT extension, a student must be working on OPT based on completion of a STEM degree in one of the fields listed below. The specific list of qualifying majors references the US Classification of Instructional Programs (CIP) list published by the federal government. The complete list of qualifying STEM disciplines can be found at: http://www.ice.gov/sevis/stemlist.htm

The major listed on the I-20 must be on this list in order for a student to qualify for the extension (Department of Homeland Security is inviting individuals to submit additional majors that they believe qualify). Please note that your UNM major is reported to the government using one of these CIP codes as selected by the UNM department and the UNM Office of Records and Registration and cannot be changed/updated by OIPS unless the entire university reclassifies the CIP code for that major. Generally speaking, the following fields are on the CIP list:

- Actuarial Science
- Computer Science Applications
• Engineering
• Engineering Technologies
• Biological and Biomedical Sciences
• Mathematics
• Military Technologies
• Physical Sciences
• Science Technologies
• Medical Scientist (MS, PhD)

B. How to apply: Students who qualify must apply through the Office of International Programs and Studies (OIPS). Contact an OIPS advisor or look at the instructions on our website at: http://www.unm.edu/oips/all_handouts/OPT%20.pdf

C. Work permission while the extension is pending: F-1 students who file timely for a STEM extension (before the current period of OPT expires) may continue employment while the application is pending until receiving a final decision from USCIS, or 180 days, whichever comes first.

D. What happens once the application is processed?: Approved extensions allow for students to remain working for the STEM employer on the new EAD. If denied, the student must depart or transfer to another school to continue studying.

E. What happens if the extension is granted?: Students who have the extension granted are permitted to work on OPT in their field of study for an employer who participates in the E-Verify program for an additional 17 months as long as they continue to report any change in their name, residential or mailing address, name of employer or employer address to OIPS. They must also report every 5.5 months to OIPS to confirm that their information is still the same as last reported in order to maintain legal student status. If the student leaves employment, the employer must report this information to OIPS within 48 hours and OIPS must terminate the student record in SEVIS (this means that you need to contact us to tell us if you will move to a new E-Verify employer in your field BEFORE you change employers). If the extension is granted, the authorization period for the 17-month OPT extension begins the day after the expiration of the initial post-completion OPT employment authorization, and ends 17 months later, regardless of the date the extension is approved.

2. Extension of OPT work permission while an H-1B is being processed (“Cap-Gap Provision”):
A. What is the “Cap-gap”: “Cap-gap” occurs when an academic foreign student’s (F-1) status and work authorization expire during the current fiscal year before the student can start approved H-1B employment during the next fiscal year beginning on October 1.

B. How does the “Cap-gap” rule work?: This new interim final rule provides a permanent solution to the H-1B “cap-gap” in that it allows employment to continue while an H-1B application is pending. Previous cap-gap provisions extended only the stay but not the employment authorization.

C. Who is eligible to benefit from the “Cap-gap” rule?: F-1 classified nonimmigrant students whose employer has filed an H-1B petition on their behalf and whose petition is selected, may now receive an extended/authorized stay for employment.

D. How do I get my employment documents extended to cover the “Cap-gap” period?:

- **Students whose OPT ends before June 2, 2008**: If your OPT ends before June 2 and your employer properly filed an H-1B petition between April 1 and April 5, 2008 AND that petition has NOT been rejected for receipting you should contact OIPS immediately to find out how you can have your work permission extended.

- **Students whose OPT ends after June 2 but before July 28, 2008**: If your OPT ends before July 28, 2008 and if your properly filed H-1B petition is waitlisted or selected for receipting, you should contact OIPS at least two weeks before your OPT expires to find out how you can have your work permission extended.

- **Students whose OPT ends after July 28 but before September 30, 2008**: If your OPT ends before September 30, 2008 and your properly filed H-1B petition is selected for receipting, you should contact OIPS at least two weeks before your OPT expires to find out how you can have your work permission extended.

3. **Extension of date to file for initial OPT**
Currently, an applicant for post-completion OPT must file their application before their degree completion date. Under the new rule, a student will be able to file the OPT application up to 90 days before the degree completion date, and up to 60 days after the degree completion date.
However, the application for OPT must be submitted to the USCIS Processing Center within 30 days of the date the school enters the recommendation for OPT into the SEVIS record.

The starting date for the OPT Employment Authorization Document (EAD) will be the date requested by the student or the date OPT is approved at the USCIS Service Center, whichever is later.

4. Requirement to report employer information

A. All OPT Students: All students on OPT must report to the international student office at their former school:
   - Any change in name or address
   - The name and address of their employer
   - Any change to the name and address of the employer
   - Any interruption of such employment
Failure to report this information will result in the loss of your legal student status in the US.

B. OPT STEM Extension Students: In addition, students with an approved 17 month extension must report to the international student office at their former school within ten days:
   - Any change in name or residential/mailing address
   - The name and address of their employer
   - Any change to the name and address of the employer
   - Any interruption of such employment
Students with an approved 17 month extension must also make a validation report to the international student office at their former school every six months starting on the date the extension begins and ending when the OPT ends. OIPS asks that you provide this information every 5.5 months so that we have time to validate your information in SEVIS. The validation is a confirmation that the student’s name and address, employer name and address, and/or loss of employment is current and accurate. Once again failure to comply with this reporting requirement will result in a loss of legal F-1 status.

The employer of a student with an approved 17-month OPT extension must agree to report the termination or departure of the student to the International Student Office of the student’s former school or through “any
other means or process identified by the Department of Homeland Security."

5. Limit on periods of unemployment during OPT
Students on post-completion OPT may not accrue an aggregate of more than 90 days of unemployment under the initial 12-month period of OPT. Students granted a 17-month OPT extension may not accrue an aggregate of more than 120 days of unemployment during the total 29-month OPT period. Periods of less than 10 days of unemployment while changing employers do not count toward the total aggregate amount allowed under each type of OPT employment.

III. Additional Information

If you have more questions or need additional information about the new requirements or how to apply for some of the new benefits, please call or come in to speak with an advisor during walk-in hours (M-F, 1:00 – 3:00) or call to schedule an appointment at 277-4032.

More information is also available online from the following sources:
Department of Homeland Security Announcement
http://www.dhs.gov/xnews/releases/pr_1207334008610.shtm
US Citizenship and Immigration Services Q and A
http://www.uscis.gov/files/article/OPT_4Apr08.pdf
NAFSA: Association of International Educators Resource on the Interim Final Rule
http://nafsa.org/regulatory_information.sec/29_month_opt_rule_updates
Text of Interim Final Rule
http://edocket.access.gpo.gov/2008/E8-7427.htm (text format, 27 pages)